IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.667 OF 2003

The State of Maharashtra Applicant

versus

Ahmedbhai Moiyodin Zakaria
Manzil and others Respondents

Shri K.V.Saste, APP for applicant.

Shri S.G.Deshmukh for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 2nd December 2005

PC :

1. The petition is directed against the order of the Additional Sessions Court in Criminal Petition No.150/1999 dated 23rd May 2002 wherein the learned Additional Sessions Judge has set aside the orders passed by Authorities exercising powers under Indian Forest Act, 1927 including the order of revisional authority dated 22nd May 1998. The goods of the respondents herein namely 4 drums of 25 Kilo Litres each of the Sandal Wood Oil seized and confiscated by the present petitioner, were directed to be returned to them.

2. I have heard Shri Saste in support of the petition and Shri Deshmukh for the respondents-original appellants. With their assistance I have perused the necessary materials.

3. In my view, considering the fact that the entire seizure has been set aside way back in the year 2002 and the goods have been released in favour of the respondents, no useful purpose will be served by deciding the controversy raised in the petition. It is urged that the basis on which the Sessions Judge proceeded was totally erroneous. It needs to be decided whether Sandal Wood Oil is forest produce or not. The contention raised is that Sandal Wood Oil being forest produce and no permission obtained from the Forest Department for it’s transportation. Its transportation without a forest transit pass as well as storing it without prior sanction of the concerned Forest Division violates Section 2(4)(a) of the Forest Act, 1927 and Section 41(1) and (2) of the said Enactment R/W Rule 103 of the Bombay Forest Rules, 1942. In my view, this issue can be gone into in an appropriate case. All contentions of the petitioner in that behalf are expressly kept open for being agitated in a

proper case.

4. However, at the same time it is clarified that as far as offence registered against the first respondent bearing No.M-26/97-98 and the proceedings in that behalf, they shall go on uninfluenced by the observations and findings of the learned Additional Sessions Judge as also disposal of this writ petition. The said case be decided on its own merits and in accordance with law. The present petition is disposed of.

(S.C.DHARMADHIKARI, J.)